

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY SEOUL

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E.O. 11652: N/A

TAGS: EAIR, KR

SUBJECT:CIVAIR: CALIFORNIA PROPERTY TAX

REF: STATE 169382

1. KOREAN EMBASSY DELIVERED DIPLOMATIC NOTE TO DEPARTMENT
ON AUGUST 16 RE CALIFORNIA PROPERTY TAX. NOTE
FOLLOWS:

QUOTE COMPLIMENTS, AND HAS THE HONOUR TO REFER TO
THE LETTER OF MARCH 24, 1978 FROM THE CALIFORNIA
STATE BOARD OF EQUALIZATION, TOGETHER WITH THE
PROPOSED AMENDMENT TO THE CALIFORNIA TAX REGULATIONS
WHICH WOULD ENABLE THE STATE OF CALIFORNIA AND THE
LOCAL COUNTY ASSESSORS OF CALIFORNIA TO LEVY A
PERSONAL PROPERTY TAX ON AIRCRAFT OWNED AND OPERATED
BY FOREIGN AIRLINES IN FOREIGN COMMERCE TO AND
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FROM THE STATE OF CALIFORNIA.

IN THIS CONNECTION, THE EMBASSY TAKES A SERIOUS
VIEW OF THE POSSIBLE INTERNATIONAL COMPLICATIONS

WHICH MIGHT RESULT IF THE STATE OF CALIFORNIA WERE
TO IMPOSE A PROPERTY TAX ON FOREIGN AIRCRAFT

OPERATED IN FOREIGN COMMERCE. SUCH ACTION APPEARS TO CONTRADICT THE UNITED STATES TREATY OBLIGATIONS SET FORTH IN ARTICLE 24 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION AS WELL AS SECTION III OF THE ICAO COUNCIL RESOLUTION OF 14 NOVEMBER 1966 ON TAXATION OF THE INCOME OF INTERNATIONAL AIR TRANSPORT ENTERPRISES AND ON TAXATION OF AIRCRAFT.

IT IS ALSO NOTED THAT IN THE LIGHT OF THE PRINCIPLE OF RECIPROCITY UNDERLYING ARTICLE II, PARAGRAPH 5 OF THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE REPUBLIC OF KOREA AND THE UNITED STATES OF AMERICA OF 28 NOVEMBER 1957 WHICH STIPULATES THAT EACH PARTY RESERVES THE RIGHT TO EXTEND SPECIFIC TAX ADVANTAGES ON THE BASIS OF RECIPROCITY, THE IMPOSITION OF SUCH A TAX BURDEN ON THE KOREAN AIR TRANSPORT ENTERPRISE SEEMS TO BE EXTREMELY UNFAIR AND MAY IMPEDE THE SMOOTH DEVELOPMENT OF TRADE AND TRAVEL BETWEEN THE TWO COUNTRIES.

IN VIEW OF THE ABOVE CONSIDERATIONS, THE EMBASSY RESPECTFULLY URGES THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO TAKE AN APPROPRIATE ACTION TO PREVENT THE IMPOSITION OF A PROPERTY TAX ON FOREIGN-REGISTERED AIRCRAFT BY THE STATE OF CALIFORNIA IN LIMITED OFFICIAL USE

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ORDER TO ASSURE CONTINUED GROWTH AND DEVELOPMENT OF TRADE AND OTHER CO-OPERATIVE RELATIONS BETWEEN OUR TWO COUNTRIES. UNQUOTE VANCE

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